

Hon. Tana Lin

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CHARLIE EDGMON, by and through his next  
friend, TOM DEGROOT,

Plaintiffs,

v.

SUSAN E. BIRCH, in her official capacity as  
director of the Washington State Health Care  
Authority; COORDINATED CARE OF  
WASHINGTON, INC.; and SOUND,  
Defendants.

NO. 22-cv-287

~~[PROPOSED]~~ ORDER APPOINTING  
SETTLEMENT GUARDIAN AD LITEM

A Petition for Appointment of Settlement Guardian ad Litem having been filed on behalf of the above-named incapacitated person, the Court finding that the facts set forth give the court jurisdiction over this matter and that pursuant to LCR 17, a Settlement Guardian ad Litem is required to investigate and evaluate the proposed settlement; now therefore,

THE COURT ORDERS

A. Settlement Guardian ad Litem: BARBARA BYRAM is a person found or known by the court to be a suitable, disinterested person having the requisite knowledge, training and expertise to perform the duties required by LCR 17 and is hereby appointed to represent the interests of the named incapacitated person.

~~[PROPOSED]~~ ORDER APPOINTING SETTLEMENT  
GUARDIAN AD LITEM - 1

PHONE: 206-624-2650

EMAIL: barbarab@aiken.com

B. Compensation of Settlement Guardian ad Litem: The Settlement Guardian ad Litem shall be paid at an hourly rate not to exceed \$300 per hour up to a maximum of ten (10) hours, unless *further Court approval* is given *in advance* for additional fees or time.

C. Duties. The Settlement Guardian ad Litem shall have the following duties:

1. To investigate and evaluate the adequacy of the offered settlement in light of the needs and best interests of the incapacitated person.

2. To review written or oral reports from the attorneys, guardians, and medical providers necessary to permit a complete report as required by LCR 17.

3. To provide the court with a written report that addresses the adequacy of the offered settlement and provides a recommendation regarding whether the Court should approve the offered settlement. The report shall include a description, **in depth appropriate to the magnitude of injuries and the amount offered**, of the following information, as a minimum:

a) Summary: State the amount of the settlement that you are recommending, and how the net proceeds will be distributed.

b) Investigation: Describe the investigation you conducted, the persons interviewed, and the documents you reviewed.

c) Description of Incident and Cause of Action: Describe the incident and the affected person's legal claims.

d) Injuries: Describe the injuries, diagnosis, course of treatment, and prognosis for future disability. Attach a copy of a recent supporting medical report or medical record.

1 e) Damages: Describe the special and general damages that are  
2 potentially recoverable.

3 f) Liability Issues: Describe the factors bearing on each potential  
4 defendant person or entity's liability, including issues of primary negligence,  
5 contributory or comparative negligence, causation and probable chance of  
6 recovery.

7 g) Insurance & Assets Available to Satisfy Claim: State the nature and  
8 extent of all insurance coverage or assets available to satisfy the claim, whether  
9 maintained through the defendant, the family, or available through government  
10 entitlements.

11 h) Liens and Subrogation: Identify all liens, subrogation, and  
12 reimbursement claims. Make a recommendation regarding how those claims are to  
13 be resolved including a recommendation regarding retention in any attorney's trust  
14 account of the full amount claimed until the final resolution of the claim.

15 i) Other Claims: Identify all other claims arising out of the same  
16 occurrence. State whether another family member has a claim arising out of the  
17 same occurrence, and whether any family member is or could be a plaintiff or  
18 defendant in any action based upon the minor's claim or the occurrence from which  
19 it arose.

20 j) Apportionment: Indicate the amount, basis, and justification for  
21 allocating the gross settlement to be paid among the various claimants of the same  
22 family or unrelated claimants, if any. State whether the minor or incapacitated  
23 person was independently represented at the time the proposed apportionment was  
determined.

k) Proposed Settlement: Discuss and evaluate the reasonableness of  
the proposed settlement amount, stating the basis for your valuation of the claim.  
Also discuss the form the settlement might take (e.g. blocked account,  
guardianship, structured settlement, or trust) and the proposed settlement  
documents.

l) Expenses and Fees: Discuss and evaluate the reasonableness of the  
attorney's fees requested, costs to be reimbursed, and any other deductions from  
the proceeds of the claim.

1           m)     Disposition of Net Proceeds: Set forth your calculation of the net  
 2     proceeds of the claim. Begin with the proposed offer and subtract attorney's fees  
 3     and costs, liens and subrogation reimbursements, and settlement guardian ad litem  
 4     fees. Give your reasons and recommendations regarding as to how the funds  
 5     should be placed. If a legal guardianship is required, state the nominee and the  
 6     terms that you recommend. If you recommend a structured settlement, state why  
 7     that option is preferred; the specific payout schedule recommended and how it  
 8     relates to the specific needs of the minor; and a statement which includes the cost  
 of the structured portion, the interest rate received, the name and financial rating  
 of the company providing the annuity. If you or any party recommend the creation  
 of a trust as recipient of the settlement funds, give your recommendation as to the  
 special needs of the incapacitated person and how they would be served by having  
 a trust; specific provisions that ought to be included or omitted from the trust; and  
 your nomination of professional to draft the trust, and a recommended fee  
 therefore.

9           n)     Settlement Guardian ad Litem Fees: Attach a declaration of your  
 10    time and services, giving your professional rate and the amounts sought. Indicate  
 who you recommend pay these fees and costs.

11          o)     Presence at Hearing: State whether the minor or the Settlement  
 12    Guardian ad Litem, or which other person(s) should be present at the hearing to  
 approve the settlement.

13          p)     Settlement Approval Sought in Other Jurisdiction: State whether  
 14    the settlement has been submitted for approval in any other court or jurisdiction.

15          q)     Conclusion: Give your recommendation as to the adequacy of the  
 16    offered settlement, and the steps to be followed if you recommend that the  
 settlement not be approved.

17       D.     The Settlement Guardian ad Litem shall file a report with the court within forty-  
 18    five (45) days after appointment and provide a copy to each party, or to their counsel, if they are  
 represented.

19       E.     The cost of bringing this proceeding and the Settlement Guardian ad Litem's fee  
 20    will be paid as approved as a part of the settlement or is reserved for determination at the time the  
 21    settlement is submitted to the court.

1 F. A court's working copy of the report and supporting documentation shall be  
2 delivered not later than seven (7) days preceding the hearing to the Department of the proper case  
3 assignment area who will be hearing the matter.

4 G. The Settlement Guardian ad Litem shall not employ or retain counsel or experts to  
5 assist in these duties except as authorized in advance by the court, and shall promptly advise the  
6 court if others have retained such a person without court authorization, including, but not limited  
7 to the retention of counsel to initiate litigation or draft a trust.

8 H. The Settlement Guardian ad Litem may seek instruction from the court upon  
9 application and notice to all parties. If records or portions of the report contain confidential  
10 information which may adversely affect the settlement or trial of the claim, the Settlement  
Guardian ad Litem shall seek direction from the court.

11 I. Counsel or party requesting this appointment is directed to provide a copy of this  
12 order to the Settlement Guardian Ad Litem.

13 J. The Settlement Guardian ad Litem is authorized to participate in mediation and/or  
14 other negotiations which may lead to a settlement of the claim of the minor or adult incapacitated  
person named above.

15 K. **Attendance at Hearings.** The presence of the Settlement Guardian ad Litem is  
16 required unless waived by the Court in advance of the hearing for good cause shown.

17 L. Approximate settlement amount: \$273,000.00.

18 SO ORDERED this 28th day of October 2022.

19   
20 \_\_\_\_\_  
21 Tana Lin  
22 United States District Judge  
23